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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DARRYL W. TONE,  
Plaintiff,

vs.

STARDUST RESORT CASINO,  
Defendant.

3:06-CV-0479-BES (VPC)

**REPORT AND RECOMMENDATION  
OF U.S. MAGISTRATE JUDGE**

June 13, 2007

BY: _____ CLERK US DISTRICT COURT DISTRICT OF NEVADA	FILED	RECEIVED
	ENTERED	SERVED ON
	COUNSEL/PARTIES OF RECORD	

JUN 14 2007

11 This Report and Recommendation is made to the Honorable Brian E. Sandoval, United  
12 States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to  
13 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. For the reason set forth below, it is recommended that  
14 this action be dismissed without prejudice.

15 **I. BACKGROUND, DISCUSSION & CONCLUSION**

16 On April 25, 2007, the court granted plaintiff's request to proceed *in forma pauperis* (#3).  
17 Additionally, the court dismissed plaintiff's complaint without prejudice for failure to state a viable  
18 civil rights claim *Id.* Plaintiff was granted thirty (30) days within which to file an amended  
19 complaint that stated a claim upon which relief may be granted. *Id.* Plaintiff was cautioned that if  
20 he failed to file an amended complaint within the time allotted, the undersigned Magistrate Judge  
21 may recommend that the District Court dismiss plaintiff's action. *Id.*

22 Although plaintiff has filed various papers with the court (#s 4, 5, & 6), plaintiff failed to file  
23 an amended complaint as ordered and has not requested additional time in which to do so.  
24 Therefore, this court recommends that this action be **DISMISSED** without prejudice.

25 The parties are advised:

26 1. Pursuant to 28 U.S.C § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules of Practice, the  
27 parties may file specific written objections to this report and recommendation within ten days of  
28 receipt. These objections should be entitled "Objections to Magistrate Judge's Report and

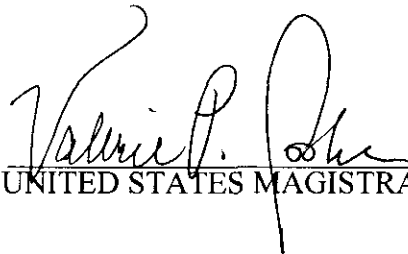
1 Recommendation” and should be accompanied by points and authorities for consideration by the  
2 District Court.

3 2. This report and recommendation is not an appealable order and any notice of appeal  
4 pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District Court’s judgment.

5 **II. RECOMMENDATION**

6 **IT IS THEREFORE RECOMMENDED** that the district court enter an order  
7 **DISMISSING** this action without prejudice.

8 DATED: June 13, 2007.

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11 UNITED STATES MAGISTRATE JUDGE  
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